

Bureau of Land Management, Interior

Pt. 1860

§ 1825.12 When does relinquished land become available again for other application or appropriation?

Relinquished land may not again become available until BLM notes the filed relinquishment of an interest on the land records maintained by the BLM office having jurisdiction over the lands involved. If you have any questions regarding the availability of a particular tract of land, you should contact the BLM office having jurisdiction over the lands or records.

PART 1840—APPEALS PROCEDURES

AUTHORITY: R.S. 2478, as amended; 43 U.S.C. 1201.

§ 1840.1 Cross reference.

For special procedural rules applicable to appeals from decisions of Bureau of Land Management officers or of administrative law judges, within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, see subpart E of part 4 of this title. Subpart A of part 4 and all of the general rules in subpart B of part 4 of this title not inconsistent with the special rules in subpart E of part 4 of this title are also applicable to such appeals procedures.

[36 FR 15119, Aug. 13, 1971]

PART 1850—HEARINGS PROCEDURES

Subpart 1850—Hearing Procedures; General

AUTHORITY: R.S. 2478, as amended; 43 U.S.C. 1201.

§ 1850.1 Cross reference.

For special procedural rules applicable to hearings in public lands cases, including hearings under the Federal Range Code for Grazing Districts and hearings in both Government and private contest proceedings, within the jurisdiction of the Board of Land Appeals, Office of Hearings and Appeals, see subpart E of part 4 of this title. Subpart A of part 4 and all of the general rules in subpart B of part 4 of this title not inconsistent with the special

rules in subpart E of part 4 of this title are also applicable to such hearings, contest, and protest procedures.

[36 FR 15119, Aug. 13, 1971]

PART 1860—CONVEYANCES, DISCLAIMERS AND CORRECTION DOCUMENTS

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Subpart 1862 [Reserved]

Subpart 1863—Other Title Conveyances

AUTHORITY: R.S. 2478; 43 U.S.C. 1201.

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§ 1863.5 Title transfer to the Government.

§ 1863.5–1 Evidence of title.

Evidence of title, when required by the regulations, must be submitted in such form and by such abstractor or company as may be satisfactory to the Bureau of Land Management. A policy of title insurance, or a certificate of title, may be accepted in lieu of an abstract, in proper cases, when issued by a title company. A policy of title insurance when furnished must be free from conditions and stipulations not acceptable to the Department of the Interior. A certificate of title will be accepted only where the certificate is made to the Government, or expressly for its benefit and where the interests of the Government will be sufficiently protected thereby.

[35 FR 9533, June 13, 1970]

CROSS REFERENCE: For evidence of title in mining cases, see § 3862.1–3 of this chapter.

Subpart 1864—Recordable Disclaimers of Interest in Land

SOURCE: 49 FR 35297, Sept. 6, 1984, unless otherwise noted.

AUTHORITY: 43 U.S.C. 1201, 1740, and 1745.

§ 1864.0–1 Purpose.

The Secretary of the Interior has been granted discretionary authority by section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745) to issue recordable disclaimers of interests in lands. In general, a disclaimer may be issued if the disclaimer will help remove a cloud on the title to lands and there is a determination that such lands are not lands of the United States or that the United States does not hold a valid interest in the lands. These regulations implement this statutory authority of the Secretary.

§ 1864.0–2 Objectives.

(a) The objective of the disclaimer is to eliminate the necessity for court action or private legislation in those instances where the United States asserts no ownership or record interest, based upon a determination by the Sec-

retary of the Interior that there is a cloud on the title to the lands, attributable to the United States, and that:

(1) A record interest of the United States in lands has terminated by operation of law or is otherwise invalid; or

(2) The lands lying between the meander line shown on a plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States; or

(3) Accreted, relicted, or avulsed lands are not lands of the United States.

(b) A disclaimer has the same effect as a quitclaim deed in that it operates to estop the United States from asserting a claim to an interest in or the ownership of lands that are being disclaimed. However, a disclaimer does not grant, convey, transfer, remise, quitclaim, release or renounce any title or interest in lands, nor does it operate to release or discharge any tax, judgement or other lien, or any other mortgage, deed or trust or other security interest in lands that are held by or for the benefit of the United States or any instrumentality of the United States.

(c) The regulations in this subpart do not apply to any disclaimer, release, quitclaim or other similar instrument or declaration, that may be issued pursuant to any provision of law other than section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745).

§ 1864.0–3 Authority.

Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745), authorizes the Secretary of the Interior to issue a recordable disclaimer, where the disclaimer will help remove a cloud on the title of such lands, if certain determinations are made and conditions are met.

§ 1864.0–5 Definitions.

As used in this subpart, the term:

(a) *Authorized officer* means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(b) *Accreted lands* have the meaning imparted to them by applicable law. In

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general, they are lands that have been gradually and imperceptibly formed along the banks of a body of water by deposition of water-borne soil.

(c) *Avulsed lands* have the meaning imparted to them by applicable law. In general, they are lands that have been uncovered by a relatively sudden change in alignment of the channel of a river, or by a comparable change in some other body of water, or that remain as uplands following such a change, or that are located in the bed of the new channel.

(d) *Actual shoreline* means the line which is washed by the water wherever it covers the bed of a body of water at its mean high water level.

(e) *Lands* means lands and interests in lands now or formerly forming a part of the reserved or unreserved public lands of the contiguous 48 States and Alaska and as to any coastal State, includes submerged lands inside of the seaward boundary of the State.

(f) *Meander line* means a survey line established for the purpose of representing the location of the actual shoreline of a permanent natural body of water, without showing all the details of its windings and irregularities. A meander line rarely runs straight for any substantial distance. It is established not as a boundary line but in order to permit calculation of the quantity of lands in the fractional sections remaining after segregation of the water area.

(g) *Relict lands* have the meaning imparted that term by applicable law. In general, they are lands gradually uncovered when water recedes permanently.

(h) *State* means "the state and any of its creations including any governmental instrumentality within a state, including cities, counties, or other official local governmental entities."

[49 FR 35299, Sept. 6, 1984, as amended at 68 FR 502, Jan. 6, 2003]

§ 1864.1 Application for issuance of a document of disclaimer.

§ 1864.1-1 Filing of application.

(a) Any entity claiming title to lands may file an application to have a disclaimer of interest issued if there is reason to believe that a cloud exists on

the title to the lands as a result of a claim or potential claim of the United States and that such lands are not subject to any valid claim of the United States.

(b) Before you actually file an application you should meet with BLM to determine if the regulations in this subpart apply to you.

(c) You must file your application for a disclaimer of interest with the proper BLM office as listed in § 1821.10 of this title.

[68 FR 502, Jan. 6, 2003]

§ 1864.1-2 Form of application.

(a) No specific form of application is required.

(b) A nonrefundable fee of \$100 shall accompany the application.

(c) Each application shall include:

(1) A legal description of the lands for which a disclaimer is sought. The legal description shall be based on either an official United States public land survey or, in the absence of or inappropriateness (irregularly shaped tracts) of an official public land survey, a metes and bounds survey (whenever practicable, tied to the nearest corner of an official public land survey), duly certified in accordance with State law, by the licensed civil engineer or surveyor who executed or supervised the execution of the metes and bounds survey. A true copy of the field notes and plat of survey shall be attached to and made a part of the application. If reliance is placed in whole or in part on an official United States public land survey, such survey shall be adequately identified for record retrieval purposes;

(2) The applicant's name, mailing address, and telephone number and the names addresses and telephone numbers of others known or believed to have or claim an interest in the lands;

(3) All documents which show to the satisfaction of the authorized officer the applicant's title to the lands;

(4) As complete a statement as possible concerning:

(i) The nature and extent of the cloud on the title, and

(ii) The reasons the applicant believes:

(A) The record title interest of the United States in the lands included in

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the application has terminated by operation of law or is otherwise invalid, including a copy or legal citation of relevant provisions of law; or

(B) The lands between the meander line shown on the plat of survey approved by the Bureau of Land Management or its predecessors and the actual shoreline of a body of water are not lands of the United States, including as documentation an official plat of survey or a reference to a date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue; or

(C) The lands are accreted, relicted or avulsed and are no longer lands of the United States, including submission for the uplands portion of the body of water affected a copy of an official plat of survey or a reference to it by date of filing or approval and, if the applicant elects, any non-Federal survey plats related to the issue;

(5) Any available documents or title evidence, such as historical and current maps, photographs, and water movement data, that support the application;

(6) The name, mailing address, and telephone number of any known adverse claimant or occupant of the lands included in the application;

(7) Any request the applicant may have that the disclaimer be issued in a particular form suitable for use in the jurisdiction in which it will be recorded; and

(d) Based on prior discussions with the applicant, the authorized officer may waive any or all of the aforementioned items if in his/her opinion they are not needed to properly adjudicate that application.

§ 1864.1-3 Action on application.

(a) BLM will not approve an application, except for applications filed by a state, if more than 12 years have elapsed since the applicant knew, or should have known, of the claim of the United States.

(b) BLM will not approve an application if:

(1) The application pertains to a security interest or water rights; or

(2) The application pertains to trust or restricted Indian lands.

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(c) BLM will, if the application meets the requirements for further processing, determine the amount of deposit we need to cover the administrative costs of processing the application and issuing a disclaimer.

(d) The applicant must submit a deposit in the amount BLM determines.

(e) If the application includes what may be omitted lands, BLM will process it in accordance with the applicable provisions of part 9180 of this title. If BLM determines the application involves omitted lands, BLM will notify the applicant in writing.

[68 FR 502, Jan. 6, 2003]

§ 1864.1-4 Consultation with other Federal agencies.

BLM will not issue a recordable disclaimer of interest over the valid objection of another land managing agency having administrative jurisdiction over the affected lands. A valid objection must present a sustainable rationale that the objecting agency claims United States title to the lands for which a recordable disclaimer is sought.

[68 FR 503, Jan. 6, 2003]

§ 1864.2 Decision on application.

(a) The authorized officer shall notify the applicant and any party adverse to the application, in writing, on the determination of the authorized officer on whether or not to issue a disclaimer. Prior to such notification, the authorized officer shall issue to the applicant a billing that includes a full and complete statement of the cost incurred in reaching such determination, including any sum due the United States or that may be unexpended from the deposit made by the applicant. If the administrative costs exceed the amount of the deposit required of the applicant under this subpart, the applicant shall be informed that a payment is required for the difference between the actual costs and the deposit. The notification shall also require that payment be made within 120 days from the date of mailing of the notice. If the deposit exceeds the administrative costs of issuing the disclaimer, the applicant shall be informed that a credit for or a refund of the excess will be

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made. Failure to pay the required amount within the allotted time shall constitute grounds for rejection of the application. Before the authorized officer makes a determination to issue a disclaimer, he/she shall publish notice of the application, including the grounds supporting it, in the FEDERAL REGISTER. Publication in the FEDERAL REGISTER shall be made at least 90 days preceding the issuance of a decision on the disclaimer. Notice shall be published in a newspaper located in the vicinity of the lands covered by the application once a week for 3 consecutive weeks during the 90-day period set out herein. Neither publication shall be made until the applicant has paid the administrative costs.

§ 1864.3 Issuance of document of disclaimer.

Upon receipt of the payment required by §§ 1864.1-2(b), 1864.1-3(c) and 1864.2 of this title and following, by not less than 90 days, the publication required by § 1864.2 of this title, the authorized officer shall make a decision upon the application, and if the application is allowed, shall issued to the applicant an instrument of disclaimer.

§ 1864.4 Appeals.

An applicant or claimant adversely affected by a written decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to 43 CFR part 4.

Subpart 1865—Correction of Conveyancing Documents

SOURCE: 49 FR 35299, Sept. 6, 1984, unless otherwise noted.

§ 1865.0-1 Purpose.

The purpose of these regulations is to implement section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746), which affords to the Secretary of the Interior discretionary authority to correct errors in patents and other documents of conveyance pertaining to the disposal of the public lands of the United States under laws administered through the Bureau of Land Management or its predecessors.

§ 1865.0-2 Objective.

The objective of a correction document is to eliminate from the chain of title errors in patents or other documents of conveyance that have been issued by the United States under laws administered by the Bureau of Land Management or its predecessors and that pertain to the disposal of the public lands or of an interest therein.

§ 1865.0-3 Authority.

Section 316 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1746) authorizes the Secretary of the Interior to correct patents and other documents of conveyance issued at any time pursuant to the laws relating to the disposal of the public lands where the Secretary of the Interior deems it necessary or appropriate to do so in order to eliminate errors.

§ 1865.0-5 Definitions.

As used in this subpart, the term:

(a) *Authorized officer* means any employee of the Bureau of Land Management to whom has been delegated the authority to perform the duties described in this subpart.

(b) *Error* means the inclusion of erroneous descriptions, terms, conditions, covenants, reservations, provisions and names or the omission of requisite descriptions, terms, conditions, covenants, reservations, provisions and names either in their entirety or in part, in a patent or document of conveyance as a result of factual error. This term is limited to mistakes of fact and not of law.

(c) *Patents or other documents of conveyance* means a land patent, a deed or some other similar instrument in the chain of title to realty that has been issued by the United States under laws administered by the Bureau of Land Management or its predecessors pertaining to the disposal of the public lands of the United States or of an interest therein. It also includes interim conveyances issued under the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601 *et seq.*), and approvals and tentative approvals issued under the Act of July 7, 1958, as amended (72 Stat. 339).

(d) *Lands* mean lands or interest in lands.

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§ 1865.1 Application for correction of conveyancing documents.

§ 1865.1–1 Filing of application.

(a) Any claimant asserting ownership of lands described in and based upon a patent or other document of conveyance containing an alleged error may file an application to correct the alleged error.

(b) An application shall be filed in writing with the proper Bureau of Land Management office as listed in § 1821.2–1(d) of this title.

§ 1865.1–2 Form of application.

(a) No specific form of application is required.

(b) A non-refundable fee of \$100 shall accompany the application.

(c) Each application shall include:

(1) The name, mailing address, and telephone number of the applicant and any others known to the applicant that hold or purport to hold any title or other interest in, lien on or claim to the lands described in the patent or other document of conveyance containing the alleged error as to which the corrective action is requested, and if the error involves a misdescription, the land that would be affected by the corrective action requested;

(2) All documents which show the applicant's title to the lands included in the application;

(3) A certified copy of any patent or other document conveying any lands included in the application to the applicant or predecessor(s) in interest; and

(4) As complete a statement as possible concerning:

(i) The nature and extent of the error;

(ii) The manner in which the error can be corrected or eliminated; and

(iii) The form in which it is recommended the corrected patent or document of conveyance be issued.

§ 1865.1–3 Action on application.

The authorized officer, upon review of the factual data and information submitted with the application, and upon a finding that an error was made in the patent or document of conveyance and that the requested relief is warranted and appropriate, shall give

written notification to the applicant and make a reasonable effort to give written notification to any others known to have or believed to have or claim an interest in the lands that a corrected patent or document of conveyance shall be issued. The notification shall include a description of how the error is to be corrected or eliminated in the patent or document of conveyance. The notice shall require the applicant to surrender the original patent or other document of conveyance to be corrected. Where such original document is unavailable, a statement setting forth the reasons for its unavailability shall be submitted in lieu of the original document. The notice may include a requirement for quitclaiming to the United States the lands erroneously included, and shall specify any terms and conditions required for the quitclaim.

§ 1865.2 Issuance of corrected patent or document of conveyance.

Upon the authorized officer's determination that all of the requirements of the Act for issuance of a corrected patent or document of conveyance have been met, the authorized officer shall issue a corrected patent or document of conveyance.

§ 1865.3 Issuance of patent or document of conveyance on motion of authorized officer.

The authorized officer may initiate and make corrections in patents or other documents of conveyance on his/her own motion, if all existing owners agree.

§ 1865.4 Appeals.

An applicant or claimant adversely affected by a decision of the authorized officer made pursuant to the provisions of this subpart shall have a right of appeal pursuant to 43 CFR part 4.

PART 1870—ADJUDICATION PRINCIPLES AND PROCEDURES

Subpart 1871—Principles

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1871.0–3 Authority.

1871.1 Equitable adjudication.

1871.1–1 Cases subject to equitable adjudication.